

AMENDED IN ASSEMBLY MAY 3, 2004
AMENDED IN SENATE JANUARY 6, 2004
AMENDED IN SENATE MARCH 24, 2003

SENATE BILL

No. 142

Introduced by Senator Alpert
(Coauthors: Senators Kuehl and Speier)

February 6, 2003

~~An act to amend Section 1357.22 of the Health and Safety Code, to amend Section 10762 of the Insurance Code, and to amend Section 2130 of the Labor Code, relating to health care coverage. An act to amend Sections 124977, 124980, 125000, and 125001 of the Health and Safety Code, relating to genetic testing.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 142, as amended, Alpert. ~~Health care coverage: State Health Purchasing Program~~ Genetic testing.

(1) *The Hereditary Disorders Act, among other provisions, declares the intent of the Legislature that the state's hereditary disorders program activities are to be fully supported by fees collected for services provided by the program, unless otherwise provided. Existing law requires the department to charge a fee to all payers for any tests or activities performed pursuant to provisions relating to genetic disorder prevention services, including the Hereditary Disorders Act. Existing law requires that any fee charged for screening and followup services provided to Medi-Cal eligible persons, health care service plan enrollees, or persons covered by disability insurance policies are to be paid directly to the Genetic Disease Testing Fund, a continuously appropriated fund, to be used for purposes of the Hereditary Disorders*

Act, subject to the terms and conditions of the applicable health care service plan or insurance coverage. Under existing law, all moneys collected by the department pursuant to the act must be deposited into the fund. In addition, on and after July 1, 2002, the State Department of Health Services is required to charge a fee for newborn screening and followup services, and requires the amount of the fee to be established pursuant to regulation and periodically adjusted by the director.

This bill would make legislative findings and declarations with respect to the need for expanded genetic testing of newborns in California.

This bill would delete the requirement that the director establish and adjust the newborn screening fee. The bill would require the department to adopt regulations to implement the fee provisions, in consultation with the Department of Insurance and the Department of Managed Health Care.

This bill would provide for direct payment of fees into the Genetic Disease Testing Fund by persons eligible for the Healthy Families Program, and would delete the requirement that payment of fees into the fund would be subject to the terms and conditions of the health care service plan or insurance policy. The bill would require all hospital contracts for maternity care with public and private payers, except for Medi-Cal contracts, to be amended to ensure full payment to the hospital of the established fee amount.

This bill would provide that the imposition of a General Fund-based hiring freeze shall not apply to positions supported by the Genetic Disease Testing Fund that are necessary to implement expanded newborn screening, and that these positions shall also be exempt from provisions of existing law relating to the abolishment of vacant state positions.

(2) Existing law requires the Director of Health Services to establish necessary regulations and standards for hereditary disorders programs, in order to promote and protect the public health and safety. Existing law requires these standards to implement designated principles, including provisions for compensatory and civil damages for an individual whose confidentiality has been breached as a result of a violation of the Hereditary Disorders Act, as well as an award of attorney's fees and litigation costs.

This bill would revise the above provisions and would additionally provide for imprisonment, a fine, or both, for the knowing breach of



confidentiality of an individual tested under the act. By creating a new crime, the bill would impose a state-mandated local program.

(3) Existing law requires the State Department of Health Services to establish a genetic disease unit to coordinate all departmental programs in the area of genetic disease. Existing law requires the genetic disease unit to evaluate and prepare recommendations on the implementation of tests for the detection of certain hereditary and congenital diseases.

This bill would add biotinidase disorders of fatty and organic acid metabolism to the diseases for which the genetic disease unit is required to evaluate and prepare recommendations.

This bill would require the department to expand statewide screening of newborns to include tandem mass spectrometry screening for fatty acid and organic acid disorders and congenital adrenal hyperplasia, and to provide information with respect to these disorders and testing resources to all women receiving prenatal care and admitted to a hospital for delivery. If the department is unable to provide statewide screening for these disorders by July 1, 2005, the bill would require the department to temporarily obtain statewide screening for these disorders from one or more laboratories, through a competitive bid process. The bill would also enact related reporting requirements.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law creates the State Health Purchasing Program managed by the Managed Risk Medical Insurance Board. Under existing law, a health care service plan contract with an employer, as defined, and a health insurer selling a policy to an employer that provides health coverage to insureds pursuant to the State Health Purchasing Program requirements, is required to meet specified requirements.~~

~~This bill would make nonsubstantive changes to these provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. ~~Section 1357.22 of the Health and Safety Code~~
2



1 *SECTION 1. The Legislature finds and declares all of the*
2 *following:*

3 (a) Birth defects are the leading cause of infant death in
4 California and the United States.

5 (b) In California, more than 530,000 babies are born each year.
6 According to the California Birth Defects Monitoring Program,
7 one in 33 will be born with a debilitating condition. Of these, one
8 in 11 will die.

9 (c) Each year, newborn screen programs in all states test four
10 million newborns to identify those who may have specific genetic
11 and metabolic disorders that could threaten their life or long-term
12 health and development. An estimated one in 3,000 newborn
13 children carries a metabolic disorder that interferes with the
14 growing child's development. California conducts newborn
15 screening for the following disorders: phenylketonuria,
16 galactosemia, sickle cell disease, and congenital hypothyroidism.
17 Without early detection and dietary treatment, children affected
18 with these genetic conditions may suffer serious illness, severe
19 physical or developmental disability, and death. The state's
20 newborn screening program has proven effective in reducing the
21 incidence of morbidity and mortality resulting from these four
22 disorders.

23 (d) Recent technological advances make it possible and
24 affordable to screen for larger numbers of treatable metabolic
25 disorders, more than 20 from a single sample. At least 26 states
26 have implemented this new technology, tandem mass
27 spectrometry. After being the national leader for many years,
28 California has fallen far behind in its efforts to prevent infant
29 morbidity and mortality caused by treatable metabolic disorders.
30 At least 40 states now screen their newborns for more preventable
31 disorders than California.

32 (e) In 2002–03, the Genetic Disease Branch (GDB) of the State
33 Department of Health Services conducted a pilot project to expand
34 newborn screening to 30 disorders. As a result of the pilot project,
35 51 affected infants were identified and referred for treatment.
36 Without expanded screening, these infants may have died or
37 suffered severe disabilities, such as cerebral palsy, and required
38 costly medical care, special education, developmental services,
39 and physical, speech, or occupational therapies.



(f) In California, the average annual cost of providing services to a person with a developmental disability is between fifteen thousand dollars (\$15,000) and one hundred fifty thousand dollars (\$150,000); special education costs are about seven thousand five hundred dollars (\$7,500) annually. According to the Centers for Disease Control and Prevention, the average lifetime cost of providing services to a child with mental retardation is one million fourteen thousand dollars (\$1,014,000). More than one-half of all babies born in the state are eligible for Medi-Cal, most of these costs are borne by the state, and accordingly, significant costs are also incurred by insurance companies, health maintenance organizations, and individual families.

(g) Cost-benefit analyses have repeatedly found that expanded newborn screening produces significant net benefits. The GDB estimates that for every dollar spent on expanded screening, two dollars and fifty-nine cents (\$2.59) is saved in average lifetime medical costs alone. Taking into consideration special education and developmental services cost savings, the benefits are even greater.

SEC. 2. *Section 124977 of the Health and Safety Code is amended to read:*

124977. (a) It is the intent of the Legislature that, unless otherwise specified, the program carried out pursuant to this chapter be fully supported from fees collected for services provided by the program.

(b) (1) The department shall charge a fee to all payers for any tests or activities performed pursuant to this chapter. The amount of the fee shall be established by regulation and periodically adjusted by the director in order to meet the *total* costs of this chapter. Notwithstanding any other provision of law, any fees charged for screening and followup services provided to ~~Medi-Cal~~ *eligible persons eligible for the Medi-Cal program or the Healthy Families Program*, health care service plan enrollees, or persons covered by disability insurance policies, shall be paid in full directly to the Genetic Disease Testing Fund, ~~subject to all terms and conditions of each enrollee's or insured's health care service plan or insurance coverage, whichever is applicable, including, but not limited to, copayments and deductibles applicable to these services, and only if these copayments, deductions, or limitations are disclosed to the subscriber or enrollee pursuant to the~~

~~disclosure provisions of Section 1363. Notwithstanding any other provision of law, the department shall adopt regulations to implement this section, in consultation with the Department of Insurance and the Department of Managed Health Care.~~

(2) The department shall expeditiously undertake all steps necessary to implement the fee collection process, including personnel, contracts, and data processing, so as to initiate the fee collection process at the earliest opportunity. ~~In no event shall a hospital be charged a fee for any test performed pursuant to this chapter on or after July 1, 2001.~~

~~(3) Paragraphs (1) and (2) shall be inoperative for services provided after June 30, 2002.~~

~~(4)~~

(3) Effective for services provided on and after July 1, 2002, the department shall charge a fee to the hospital of birth, or, for births not occurring in a hospital, to families of the newborn, for newborn screening and followup services. The hospital of birth and families of newborns born outside the hospital shall make payment in full to the Genetic Disease Testing Fund. ~~The amount of the fee shall be established by regulation and periodically adjusted by the director in order to meet the costs of providing services under this chapter. Notwithstanding any other provision of law, hospital contracts for maternity care with public and private payers, with the exception of Medi-Cal contracts, shall be amended to ensure full payment of the amount established by regulation to the hospital.~~ The department shall not charge or bill Medi-Cal beneficiaries for services provided under this chapter.

(c) (1) The Legislature finds that timely implementation of changes in genetic screening programs and continuous maintenance of quality statewide services requires expeditious regulatory and administrative procedures, ~~including policies and procedures developed pursuant to Sections 12101 and 12102 of the Public Contract Code or Division 25.2 (commencing with Section 38070) of the Health and Safety Code,~~ to obtain the most cost-effective electronic data processing, hardware, software services, testing equipment, ~~and testing services,~~ and followup ~~contracts services.~~

(2) The expenditure of funds from the Genetic Disease Testing Fund for these purposes shall not be subject to ~~Section 12113.5~~ 12102 of, and Chapter 2 (commencing with Section 10290) of Part

2 of Division 2 of, the Public Contract Code, *or to Division 25.2 (commencing with Section 38070)*. The department shall provide the Department of Finance with documentation that equipment and services have been obtained at the lowest cost consistent with technical requirements for a comprehensive high-quality program.

~~(d) Nothing in this section shall be construed to impose a new mandated benefit on health care service plans and health insurers.~~

(1) The department may adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, these emergency regulations shall not be subject to the review and approval of the Office of Administrative Law. Notwithstanding Section 11346.1 and Section 11349.6 of the Government Code, the department shall submit these regulations directly to the Secretary of State for filing. The regulations shall become effective immediately upon filing by the Secretary of State. Regulations shall be subject to public hearing within 120 days of filing with the Secretary of State and shall comply with Sections 11346.8 and 11346.9 of the Government Code or shall be repealed.

(2) The Office Administrative Law shall provide for the printing and publication of these regulations in the California Code of Regulations. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the regulations adopted pursuant to this chapter shall not be repealed by the Office of Administrative Law and shall remain in effect until revised or repealed by the department.

(3) The Legislature finds and declares that the health and safety of California newborns is in part dependent on an effective and adequately staffed genetic disease program, the cost of which shall be supported by the fees generated by the program. Notwithstanding any other provision of law, the imposition of a General Fund-based hiring freeze shall not apply to positions supported by the Genetic Disease Testing Fund that are necessary

1 *to implement expanded newborn screening. These positions shall*
2 *also be exempt from Section 12439 of the Government Code.*

3 *SEC. 3. Section 124980 of the Health and Safety Code is*
4 *amended to read:*

5 124980. The director shall establish any regulations and
6 standards for hereditary disorders programs as the director deems
7 necessary to promote and protect the public health and safety.
8 Standards shall include licensure of master level genetic
9 counselors and doctoral level clinical geneticists. Regulations
10 adopted shall implement the principles established in this section.
11 These principles shall include, but not be limited to, the following:

12 (a) The public, especially communities and groups particularly
13 affected by programs on hereditary disorders, should be consulted
14 before any regulations and standards are adopted by the
15 department.

16 (b) The incidence, severity, and treatment costs of each
17 hereditary disorder and its perceived burden by the affected
18 community should be considered and, where appropriate, state and
19 national experts in the medical, psychological, ethical, social, and
20 economic effects or programs for the detection and management
21 of hereditary disorders shall be consulted by the department.

22 (c) Information on the operation of all programs on hereditary
23 disorders within the state, except for confidential information
24 obtained from participants in the programs, shall be open and
25 freely available to the public.

26 (d) Clinical testing procedures established for use in programs,
27 facilities, and projects shall be accurate, provide maximum
28 information, and the testing procedures selected shall produce
29 results that are subject to minimum misinterpretation.

30 (e) No test or tests may be performed on any minor over the
31 objection of the minor's parents or guardian, nor may any tests be
32 performed unless the parent or guardian is fully informed of the
33 purposes of testing for hereditary disorders and is given reasonable
34 opportunity to object to the testing.

35 (f) No testing, except initial screening for phenylketonuria
36 (PKU) and other diseases that may be added to the newborn
37 screening program, shall require mandatory participation, and no
38 testing programs shall require restriction of childbearing, and
39 participation in a testing program shall not be a prerequisite to
40 eligibility for, or receipt of, any other service or assistance from,



1 or to participate in, any other program, except where necessary to
2 determine eligibility for further programs of diagnoses of or
3 therapy for hereditary conditions.

4 (g) Pretest and posttest counseling services for hereditary
5 disorders shall be available through the program or a referral
6 source for all persons determined to be or who believe themselves
7 to be at risk for a hereditary disorder. Genetic counseling shall be
8 provided by a physician, a certified advanced practice nurse with
9 a genetics specialty, or other appropriately trained licensed health
10 care professional and shall be nondirective, shall emphasize
11 informing the client, and shall not require restriction of
12 childbearing.

13 (h) All participants in programs on hereditary disorders shall be
14 protected from undue physical and mental harm, and except for
15 initial screening for phenylketonuria (PKU) and other diseases
16 that may be added to newborn screening programs, shall be
17 informed of the nature of risks involved in participation in the
18 programs, and those determined to be affected with genetic disease
19 shall be informed of the nature, and where possible the cost, of
20 available therapies or maintenance programs, and shall be
21 informed of the possible benefits and risks associated with these
22 therapies and programs.

23 (i) All testing results and personal information generated from
24 hereditary disorders programs shall be made available to an
25 individual over 18 years of age, or to the individual's parent or
26 guardian. If the individual is a minor or incompetent, all testing
27 results that have positively determined the individual to either
28 have, or be a carrier of, a hereditary disorder shall be given through
29 a physician or other source of health care.

30 (j) All testing results and personal information from hereditary
31 disorders programs obtained from any individual, or from
32 specimens from any individual, shall be held confidential and be
33 considered a confidential medical record except for information
34 that the individual, parent, or guardian consents to be released,
35 provided that the individual is first fully informed of the scope of
36 the information requested to be released, of all of the risks,
37 benefits, and purposes for the release, and of the identity of those
38 to whom the information will be released or made available,
39 except for data compiled without reference to the identity of any
40 individual, and except for research purposes, provided that



1 pursuant to Subpart A (commencing with Section 46.101) of Part
2 46 of Title 45 of the Code of Federal Regulations entitled “Basic
3 HHS Policy for Protection of Human Subjects,” the research has
4 first been reviewed and approved by an institutional review board
5 that certifies the approval to the custodian of the information and
6 further certifies that in its judgment the information is of such
7 potentially substantial public health value that modification of the
8 requirement for legally effective prior informed consent of the
9 individual is ethically justifiable.

10 (k) An individual whose confidentiality has been breached as
11 a result of any violation of the provisions of the Hereditary
12 Disorders Act, as defined in subdivision (b) of Section 27, may
13 recover compensatory damages and, in addition, may recover civil
14 damages not to exceed ten thousand dollars (\$10,000), reasonable
15 attorney’s fees, and the costs of litigation and civil damages. Any
16 person who knowingly breaches the confidentiality of an
17 individual tested under this article shall be subject to payment of
18 compensatory damages, and in addition, may be subject to civil
19 damages of fifty thousand dollars (\$50,000), reasonable attorney’s
20 fees, and the costs of litigation or imprisonment of not more than
21 one year. If the offense is committed under false pretenses, the
22 person may be subject to a fine of not more than one hundred
23 thousand dollars (\$100,000), imprisonment of not more than five
24 years, or both. If the offense is committed with the intent to sell,
25 transfer, or use individually identifiable health information for
26 commercial advantage, personal gain, or malicious harm, the
27 person may be subject to a fine of not more than two hundred fifty
28 thousand dollars (\$250,000), imprisonment of not more than 10
29 years, or both.

30 (l) “Genetic counseling” as used in this section shall not
31 include communications that occur between patients and
32 appropriately trained and competent licensed health care
33 professionals, such as physicians, registered nurses, and
34 physicians assistants who are operating within the scope of their
35 license and qualifications as defined by their licensing authority.

36 SEC. 4. Section 125000 of the Health and Safety Code is
37 amended to read:

38 125000. (a) It is the policy of the State of California to make
39 every effort to detect, as early as possible, phenylketonuria and all

1 other preventable heritable or congenital disorders leading to
2 mental retardation or physical defects.

3 The department shall establish a genetic disease unit, that shall
4 coordinate all programs of the department in the area of genetic
5 disease. The unit shall promote a statewide program of
6 information, testing, and counseling services and shall have the
7 responsibility of designating tests and regulations to be used in
8 executing this program.

9 The information, tests, and counseling for children shall be in
10 accordance with accepted medical practices and shall be
11 administered to each child born in California once the department
12 has established appropriate regulations and testing methods. The
13 information, tests, and counseling for pregnant women shall be in
14 accordance with accepted medical practices and shall be offered
15 to each pregnant woman in California once the department has
16 established appropriate regulations and testing methods. These
17 regulations shall follow the standards and principles specified in
18 Section 124980. The department may provide laboratory testing
19 facilities or contract with any laboratory that it deems qualified to
20 conduct tests required under this section. However,
21 notwithstanding Section 125005, provision of laboratory testing
22 facilities by the department shall be contingent upon the provision
23 of funding therefor by specific appropriation to the Genetic
24 Disease Testing Fund enacted by the Legislature. If moneys
25 appropriated for purposes of this section are not authorized for
26 expenditure to provide laboratory facilities, the department may
27 nevertheless contract to provide laboratory testing services
28 pursuant to this section and shall perform laboratory services,
29 including, but not limited to, quality control, confirmatory, and
30 emergency testing, necessary to ensure the objectives of this
31 program.

32 (b) The department shall charge a fee for any tests performed
33 pursuant to this section. The amount of the fee shall be established
34 and periodically adjusted by the director in order to meet the costs
35 of this section.

36 (c) The department shall inform all hospitals or physicians and
37 surgeons, or both, of required regulations and tests and may alter
38 or withdraw any of these requirements whenever sound medical
39 practice so indicates.

(d) This section shall not apply if a parent or guardian of the newborn child objects to a test on the ground that the test conflicts with his or her religious beliefs or practices.

(e) The genetic disease unit is authorized to make grants or contracts or payments to vendors approved by the department for all of the following:

(1) Testing and counseling services.

(2) Demonstration projects to determine the desirability and feasibility of additional tests or new genetic services.

(3) To initiate the development of genetic services in areas of need.

(4) To purchase or provide genetic services from any sums as are appropriated for this purpose.

(f) The genetic disease unit shall evaluate and prepare recommendations on the implementation of tests for the detection of hereditary and congenital diseases, including, but not limited to, *biotinidase disorders of fatty and organic acid metabolism*, cystic fibrosis, and congenital adrenal hyperplasia. The genetic disease unit shall also evaluate and prepare recommendations on the availability and effectiveness of preventative followup interventions, including the use of specialized medically necessary dietary products.

It is the intent of the Legislature that funds for the support of the evaluations and recommendations required pursuant to this subdivision, and for the activities authorized pursuant to this subdivision (e), shall be provided in the annual Budget Act appropriation from the Genetic Disease Testing Fund.

(g) Health care providers that contract with a prepaid group practice health care service plan that annually has at least 20,000 births among its membership, may provide, without contracting with the department, any or all of the testing and counseling services required to be provided under this section or the regulations adopted pursuant thereto, if the services meet the quality standards and adhere to the regulations established by the department and the plan pays that portion of a fee established under this section that is directly attributable to the department's cost of administering the testing or counseling service and to any required testing or counseling services provided by the state for plan members. The payment by the plan, as provided in this subdivision, shall be deemed to fulfill any obligation the provider

or the provider's patient may have to the department to pay a fee in connection with the testing or counseling service.

(h) The department may appoint experts in the area of genetic screening, including, but not limited to, cytogenetics, molecular biology, prenatal, specimen collection, and ultrasound to provide expert advice and opinion on the interpretation and enforcement of regulations adopted pursuant to this section. These experts shall be designated agents of the state with respect to their assignments. These experts shall receive no salary, but shall be reimbursed for expenses associated with the purposes of this section. All expenses of the experts for the purposes of this section shall be paid from the Genetic Disease Testing Fund.

SEC. 5. Section 125001 of the Health and Safety Code is amended to read:

125001. (a) The Legislature finds and declares ~~all of the following as follows:~~

(1) California requires testing at birth for certain genetic diseases or conditions.

(2) Technology called tandem mass spectography is now available that would permit testing for many more genetic diseases or conditions.

~~(3) Many of the additional tests can be made from the same blood sample at costs of between eighteen dollars (\$18) and twenty dollars (\$20).~~

~~(4) It is the intent of the Legislature that a program for testing services and training be initiated as expeditiously as possible utilizing laboratory services experienced in tandem mass spectography.~~

(b) The department shall establish a program for the development, *provision*, and evaluation of genetic disease testing, and may provide laboratory testing facilities or make grants to, contract with, or make payments to, any laboratory that it deems qualified *and cost-effective* to conduct ~~tandem mass spectrometry~~ testing or with any metabolic specialty clinic to provide necessary treatment with qualified specialists. The program shall provide genetic screening and followup services for persons who ~~elect to~~ have the ~~additional~~ screening.

~~(c) The one-time sum of three million nine hundred thousand dollars (\$3,900,000) is appropriated to the department from the Genetic Disease Testing Fund in order to support the cost of the~~

1 ~~trial of the program and a followup report. It is the intent of the~~
2 ~~Legislature that no additional fees be charged to patients for~~
3 ~~additional genetic screening provided through tandem mass~~
4 ~~spectrometry in the trial of the program.~~

5 ~~(d) The department shall expand statewide screening of~~
6 ~~newborns to include tandem mass spectrometry screening for fatty~~
7 ~~acid and organic acid disorders and congenital adrenal~~
8 ~~hyperplasia as soon as possible. The department shall provide~~
9 ~~information with respect to these disorders and testing resources~~
10 ~~available, to all women receiving prenatal care and to all women~~
11 ~~admitted to a hospital for delivery. If the department is unable to~~
12 ~~provide this statewide screening by July 1, 2005, the department~~
13 ~~shall temporarily obtain these testing services through a~~
14 ~~competitive bid process from one or more laboratories that meet~~
15 ~~the department's requirements for testing and reporting.~~

16 ~~(d) The department shall report to the Legislature regarding the~~
17 ~~progress of the program on or before January 1, 2002 July 1, 2006.~~
18 ~~The report shall include the costs for screening, followup, and~~
19 ~~treatment as compared to costs and morbidity averted for each~~
20 ~~condition tested for in the program.~~

21 *SEC. 6. No reimbursement is required by this act pursuant to*
22 *Section 6 of Article XIII B of the California Constitution because*
23 *the only costs that may be incurred by a local agency or school*
24 *district will be incurred because this act creates a new crime or*
25 *infraction, eliminates a crime or infraction, or changes the penalty*
26 *for a crime or infraction, within the meaning of Section 17556 of*
27 *the Government Code, or changes the definition of a crime within*
28 *the meaning of Section 6 of Article XIII B of the California*
29 *Constitution.*

30 ~~is amended to read:~~

31 ~~1357.22.—On and after January 1, 2006, a health care service~~
32 ~~plan contract with an employer, as defined in Section 2122.6 of the~~
33 ~~Labor Code, providing health coverage to enrollees or subscribers~~
34 ~~shall meet all of the following requirements:~~

35 ~~(a) The employer shall be responsible for the cost of health care~~
36 ~~coverage except as provided in this section.~~

37 ~~(b) An employer may require a potential enrollee to pay up to~~
38 ~~20 percent of the cost of the coverage, proof of which is provided~~
39 ~~by the employer in lieu of paying the fee required by Part 8.7~~
40 ~~(commencing with Section 2120) of Division 2 of the Labor Code,~~

1 ~~unless the wages of the potential enrollee are less than 200 percent~~
2 ~~of the federal poverty guidelines, as specified annually by the~~
3 ~~United States Department of Health and Human Services. For~~
4 ~~enrollees making a contribution for family coverage and whose~~
5 ~~wages are less than 200 percent of the federal poverty guidelines~~
6 ~~for a family of three, the applicable enrollee contribution shall not~~
7 ~~exceed 5 percent of wages. For enrollees making a contribution for~~
8 ~~individual coverage and whose wages are less than 200 percent of~~
9 ~~the federal poverty guidelines for an individual, the applicable~~
10 ~~enrollee contribution shall not exceed 5 percent of wages of the~~
11 ~~individual.~~

12 ~~(c) If an employer, as defined in Section 2122.6 of the Labor~~
13 ~~Code, chooses to purchase more than one means of coverage for~~
14 ~~potential enrollees and, if applicable, dependents, the employer~~
15 ~~may require a higher level of contribution from potential enrollees~~
16 ~~as long as one means of coverage meets the standards of this~~
17 ~~section.~~

18 ~~(d) An employer, as defined in Section 2122.6 of the Labor~~
19 ~~Code, may purchase health care coverage that includes additional~~
20 ~~out-of-pocket expenses, such as copayments, coinsurance, or~~
21 ~~deductibles. In reviewing subscriber or enrollee~~
22 ~~share-of-premium, deductibles, copayments, and other~~
23 ~~out-of-pocket costs, the department shall consider those permitted~~
24 ~~by the board under Part 8.7 (commencing with Section 2120) of~~
25 ~~Division 2 of the Labor Code.~~

26 ~~(e) Notwithstanding subdivision (b), a medium employer may~~
27 ~~require an enrollee to contribute more than 20 percent of the cost~~
28 ~~of coverage if both of the following apply:~~

29 ~~(1) The coverage provided by the employer includes coverage~~
30 ~~for dependents.~~

31 ~~(2) The employer contributes an amount that exceeds 80~~
32 ~~percent of the cost of the coverage for an individual employee.~~

33 ~~(f) The contract includes prescription drug coverage with~~
34 ~~out-of-pocket costs for enrollees consistent with subdivision (d).~~

35 ~~SEC. 2. Section 10762 of the Insurance Code is amended to~~
36 ~~read:~~

37 ~~10762. On and after January 1, 2006, a health insurer selling~~
38 ~~a policy to an employer, as defined in Section 2122.6 of the Labor~~
39 ~~Code, providing health coverage to insureds pursuant to Part 8.7~~

1 ~~(commencing with Section 2120) of Division 2 of the Labor Code,~~
2 ~~shall meet all of the following requirements:~~

3 ~~(a) The employer shall be responsible for the cost of health care~~
4 ~~coverage except as provided in this section.~~

5 ~~(b) An employer may require a potential enrollee to pay up to~~
6 ~~20 percent of the cost of the coverage, proof of which is provided~~
7 ~~by the employer in lieu of paying the fee required by Part 8.7~~
8 ~~(commencing with Section 2120) of Division 2 of the Labor Code,~~
9 ~~unless the wages of the potential enrollee are less than 200 percent~~
10 ~~of the federal poverty guidelines, as specified annually by the~~
11 ~~United States Department of Health and Human Services. For~~
12 ~~enrollees making a contribution for family coverage and whose~~
13 ~~wages are less than 200 percent of the federal poverty guidelines~~
14 ~~for a family of three, the applicable enrollee contribution shall not~~
15 ~~exceed 5 percent of wages. For enrollees making a contribution for~~
16 ~~individual coverage and whose wages are less than 200 percent of~~
17 ~~the federal poverty guidelines for an individual, the applicable~~
18 ~~enrollee contribution shall not exceed 5 percent of wages of the~~
19 ~~individual.~~

20 ~~(c) If an employer, as defined in Section 2122.6 of the Labor~~
21 ~~Code, chooses to purchase more than one means of coverage for~~
22 ~~potential enrollees and, if applicable, dependents, the employer~~
23 ~~may require a higher level of contribution from potential enrollees~~
24 ~~as long as one means of coverage meets the standards of this~~
25 ~~section.~~

26 ~~(d) An employer, as defined in Section 2122.6 of the Labor~~
27 ~~Code, may purchase health care coverage that includes additional~~
28 ~~out of pocket expenses, such as copayments, coinsurance, or~~
29 ~~deductibles. In reviewing enrollee share of premium, deductibles,~~
30 ~~copayments, and other out of pocket costs, the department shall~~
31 ~~consider those permitted by the board under Part 8.7 (commencing~~
32 ~~with Section 2120) of Division 2 of the Labor Code.~~

33 ~~(e) Notwithstanding subdivision (b), a medium employer may~~
34 ~~require an enrollee to contribute more than 20 percent of the cost~~
35 ~~of coverage if both of the following apply:~~

36 ~~(1) The coverage provided by the employer includes coverage~~
37 ~~for dependents.~~

38 ~~(2) The employer contributes an amount that exceeds 80~~
39 ~~percent of the cost of the coverage for an individual employee.~~

1 ~~(f) The contract includes prescription drug coverage with~~
2 ~~out-of-pocket costs for enrollees consistent with subdivision (d).~~
3 ~~SEC. 3. Section 2130 of the Labor Code is amended to read:~~
4 ~~2130. The State Health Purchasing Program is hereby~~
5 ~~created. The program shall be managed by the Managed Risk~~
6 ~~Medical Insurance Board that shall have those powers granted to~~
7 ~~the board with respect to the Healthy Families Program under~~
8 ~~Section 12693.21 of the Insurance Code, except that the~~
9 ~~emergency regulation authority referenced in subdivision (o) of~~
10 ~~that section shall only be in effect for this program from the~~
11 ~~effective date of this part until three years after the requirements~~
12 ~~of this program are in effect for large and medium employers, as~~
13 ~~provided in Section 2120.1.~~

